



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

December 20, 2018

BY EMAIL and ECF

Honorable Valerie E. Caproni
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

Re: *United States v. \$400,000 in U.S. Currency, No. 18 Civ. 11975 (VEC)*

Dear Judge Caproni:

The Government respectfully writes to advise the Court of a matter initiated yesterday, December 19, 2018. *United States v. \$400,000 in United States Currency* is a civil forfeiture action related to a criminal case, *United States v. Central States Capital Markets, LLC*, 18 Cr. ___ (JPO), also initiated yesterday morning. The Government writes to provide a brief overview of these cases.

Both the criminal and the civil actions relate to a deferred prosecution agreement (the “Agreement”) that Central States Capital Markets, LLC (“CSCM”) has entered into with the United States Attorney’s Office for the Southern District of New York, in connection with CSCM’s willful violations of the Bank Secrecy Act (“BSA”), Title 31, United States Code, Section 5311, *et seq.*, Specifically, and as set forth in detail in the Statement of Facts accompanying the parties’ Agreement, CSCM willfully failed to file a Suspicious Activity Report (“SAR”) concerning transactions involving Scott Tucker (“Tucker”), a client, despite knowing, suspecting, or having reason to suspect that Tucker was using CSCM to launder proceeds from an illegal payday lending scheme. *See United States v. Scott Tucker and Timothy Muir*, 16 Cr. 091 (PKC) (S.D.N.Y.). In doing so, CSCM violated a provision of the Bank Secrecy Act, 31 U.S.C. § 5322(a).

On October 13, 2017, Tucker and his attorney, Timothy Muir, were convicted following a trial before the Honorable P. Kevin Castel of racketeering, wire fraud and money laundering for their roles in perpetrating a massive payday lending scheme. As the evidence at that trial showed, from 2008 through 2012, Tucker’s companies extended approximately 5 million loans to customers across the country, while generating more than \$2 billion dollars in revenues and hundreds of millions of dollars in profits, a portion of which flowed through accounts that Tucker, using sham companies set up through certain Native American tribes, had opened at

CSCM.

Pursuant to the Agreement, CSCM has agreed, among other things, to (a) waive indictment and consent to the filing of a one-count felony Information, charging CSCM with willfully failing to timely file a SAR, in violation of Title 31, United States Code, Sections 5318 and 5322(a) and Title 31, Code of Federal Regulations, Section 1023.320; (b) accept responsibility by, among other things, expressly acknowledging the accuracy of a detailed Statement of Facts that is incorporated into the Agreement; (c) pay a \$400,000 penalty, in the form of a civil forfeiture; (d) refrain from future criminal conduct and cooperate fully with the Government; and (e) continue its ongoing effort to implement and maintain an adequate BSA/AML compliance program, consistent with its obligations under a separate resolution reached between CSCM and the Securities and Exchange Commission (“SEC”). In exchange, the Government has agreed to defer prosecution on the Information for a period of two years, after which time – assuming that CSCM complies in all respects with the Agreement – the Government will seek to dismiss the charges.

There is no action requested in the civil action at this time. Pursuant to the Agreement, CSCM has agreed to waive service of the Government’s Verified Complaint and to the entry of an order of forfeiture. Accordingly, the Government will proceed, pursuant to Rule G of the Supplemental Rules for Maritime Claims and Asset Forfeiture Actions to the Federal Rules of Civil Procedure, to seek a final order of forfeiture after the appropriate notice period has elapsed.

The Government has filed on ECF its Verified Forfeiture Complaint, which attaches the Agreement and its exhibits (including the Statement of Facts, the Information to be filed, and a resolution duly enacted by the Board of Directors of USB).

Respectfully submitted,

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cc: Douglas R. Jensen, Esq.
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